GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal petition filed by Sri T.Sai Ram S/o T.Appa Rao, Vijayawada & Sri T.Sai Gopal S/o T.Appa Rao, Eluru, against the proceedings No.Rc.3026/2006/C3, dated:10.10.2008 of the District Collector, West Godavari- under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993(AP Act No.16/1993) – Appeal Petition allowed – Orders - Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.MS.No. 105 Dated: 15-12-2017

Read the following:

1. Proceedings of the District Collector, West Godavari, Rc.No.3026/ 2006/C3, dated 10.10.2008.
2. Appeal Petition filed by Sri T.Sai Ram S/o T.Appa Rao R/o Sri Sai Viswanatha Towers, Achari Street, S.N.Puram, Vijayawada, dt.05.11.2008.
3. Govt. Memo.No.10369/CV2/2008, SW(CV2) Dept, dt.18.11.2008.
4. Appeal Petition filed by Sri T.Sai Gopal S/o T.Appa Rao R/o Gandhi Nagar, Eluru, dt.05.11.2008.
5. Govt. Memo.No.10370/CV2/2008, SW(CV2) Dept, dt.14.11.2008.
6. From the Dist. Collector, West Godavari, Lr.No.Roc.No.C3/2322/2009, dt:11.05.2009.
7. Govt. Letter.No.10369/CV2/2008, SW(CV2) Dept, dt:02.09.2009.
8. Govt. Memo.No.10369/CV2/2008, SW(CV2) Dept, dt.01.05.2012, 17.11.2015, 16.03.2016 & 26.04.2016.
9. Govt. Memo.No.10369/CV2/2008, SW(CV2) Dept, dt:29.05.2017.
10. Written arguments submitted by the Counsel for Sri T.Sairam & Sri T. Sai Gopal before the Government on 30.06.2017.

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ORDER:

In the reference 1st read above, the District Collector, West Godavari has issued orders canceling the ST– Konda Kapu Caste Certificates obtained from the then Mandal Revenue Officer, Bhimadole on 1994 by Sri T.Sai Ram S/o T.Appa Rao & Sri T. Sai Gopal S/o T.Appa Rao.

2. In the reference 2nd read above, Sri T.Sai Ram S/o T.Appa Rao has filed an Appeal Petition before the Government, against the said Proceedings of the District Collector, West Godavari. After examining the said Appeal Petition, Government have admitted the Appeal Petition, granted stay on the proceedings of the District Collector, West Godavari and called for the parawise remarks and connected records from the District Collector, West Godavari in the reference 3rd read above.

3. In the reference 4th read above, Sri T.Sai Gopal S/o T.Appa Rao has filed an Appeal Petition before the Government, against the said Proceedings of the District Collector, West Godavari. After examining the said Appeal Petition, Government have admitted the Appeal Petition, granted stay on the proceedings of the District Collector, West Godavari and called for the parawise remarks and connected records from the District Collector, West Godavari in the reference 5th read above.

4. In the reference 6th read above, the District Collector, West Godavari has furnished the Parawise remarks and the connected records on the Appeal Petitions filed by Sri T.Sai Ram S/o T.Appa Rao & Sri T. Sai Gopal S/o T.Appa Rao.

5. The said Appeal Petition has been posted for hearing on 19.09.2009, 11.05.2012, 28.11.2015, 09.04.2016, 14.05.2016 and finally on 24.06.2017 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 8th & 9th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community

[P.T.O]

claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. The Counsel for the Appellant have attended for the personal hearing held on 24.06.2017 and submitted written arguments with the material papers in support of their community claim in the 10th read above.

6. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant/ the parawise remarks submitted by the District Collector, West Godavari and proceedings of the District Collector, West Godavari, dated 10.10.2008, the Appellate Authority has observed that:

I. The appellants in their grounds have stated that their paternal grandfather of appellants worked as Coolie at Settipet, Gundugolanu and Pulla villages situated at West Godavari District and his father belongs to ST-Konda Kapu community and appointed in the Railways on 17.10.1955 under ST-Konda Kapu category and the names of the grandfather of the appellant and his brothers i.e. Mullayya, Simhachalam and Appala Swamy are popular names in Srikakulam District as they use to pray Narsimha Swamy the deity situated at Simhachalam who is also popularly called as “Simhachalam Appanna Swamy”. Mr. Thumugunta Mullaiah, who is the grandfather of the appellant hails from “ Dandu Gopalapuram” village of Tekkali Mandal, Srikakulam District and migrated to “Kurellagudem Village” of Bhimadole Mandal, West Godavari District as agricultural coolie to eke out his livelihood. Further they have also stated that the District Collector have failed to see that in the death certificate issued for Tummagunta Mullaiah who died on 02.01.1954 at Pulla Village, his caste mentioned as Konda Kapu and the appellants father School Certificate/ Transfer Certificate and totally ignored the Caste Certificates dated 16.04.1954 issued by the Competent Authority in favour of his father.

II. The District Level Scrutiny Committee has observed that Sri T.Sai Ram and T.Sai Gopal of Kurellagudem(V) of Bheemadole(M), revealed that they have filed copies of certificates, record issued by the Educational Institutions and Department in favour of their father and grandfather and themselves. They have also stated that their caste mentioned in the school records as “Kondakapu” prior to independence, by that time there is no reservation to the “Kondakapu” which is not correct, as the school authorities during admission of the students and whatever the details furnished by the parents to the school authorities during admissions of the students used to obtain the Bio-data and particulars of the student and whatever the details furnished by the parents to the school authorities they will record the details, furnished by the parents, but it is not their duty and responsibility to examine whether the details furnished by the parents of the student is genuine or not, except relied upon the certificate of the authorities concerned and declaration furnished by the parents as part of evidence. The appellants not filed any other material evidence regarding the residence of their forefathers in tribal areas, marriages with Kondakapu people and also regarding their Gotram, Customs, traditions and formalities being observed by the Kondakapu caste people to determine that the appellants belonging to Kondakapu caste. After detailed and elaborated enquiry, the DLSC have concluded that they have belong to BC-Turupukapu community but not ‘Konda Kapu’.

III. Under section 6(3) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

[Contd..on P.3]

IV. The Appellate Authority is observed that during the course of arguments that the appellants filed written arguments in which they have stated that in school certificate of the father of the appellant clearly mentioned that the religion and caste as Hindu-Konda Kapu and further the caste certificate of their school shown as Konda Kapu as such on that score alone they are able to prove that their caste is ST-Konda Kapu. On verification of arguments and documents and grounds of appeal and para wise remarks as well as the other documents and material available on the record it is noticed that the documents pertaining to the father of the appellants with regard to the study certificates clearly indicates the religion and caste of the father of appellants as Hindu Konda Kapu apart from the appellant fathers brother school certificate which were noted by the competent way back in the years 1950's. That the said factum clearly indicates that the father of the appellants claimed that his caste as Hindu Konda Kapu in the school records in the year 1950's is genuine one and as per the prevailing decided cases that the appellants able to prove their claim that they are Hindu Konda Kapu, as such they comes under ST category, in view of taking consideration of the above and the material available on the record that it can be concluded that the lower authority failed to observe the finding of the concerned above.

7. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No.16 of 1993), hereby allow the Appeal Petitions filed by Sri T.Sai Ram S/o T.Appa Rao & Sri T. Sai Gopal S/o T.Appa Rao, by upholding their Scheduled Tribe (Konda Kapu) claim and the Proceedings of the District Collector, West Godavari issued in the reference 1st read above are set- aside.

8. The District Collector, West Godavari is directed to take necessary consequential action in the matter.

9. The records (containing Rc.No.3026/2006/C3, dated 10.10.2008, two volumes pages cf 1-350 in Volume-1, pages cf 351-800 and NF 30 in Volume-2) received from the District Collector, West Godavari through the reference 6th read above, are returned herewith in original to the District Collector, West Godavari and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.P. SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, West Godavari.
(with original records) (BY RPAD)

The Tahsildar, Bhimadole, West Godavari District.

Sri T. Sai Ram S/o T.Appa Rao, Occ: Railway Employee,
R/o Sri Sai Viswanatha Towers, 2F1,
Achari Street, S.N.Puram, Vijayawada-3.

Sri T. Sai Gopal S/o T. Appa Rao Occ: Chief Goods Supervisor,
Railway Goods Shed, Dwarapudi, East Godavari District.

Sri C.V.R. Rudra Prasad, and K. Ramesh Babu Advocates,
Flat No. 103, Sai Rashmitha Residency, Road No.9,
New Bakaram, MC# 1065,
Opp: Gandhi Nagar Play Ground, Hyderabad-80.

[Contd..on P.4]

The Sr. Divisional Personnel Officer,
Personnel Branch,
Divisional Railway Manager's Office,
South Central Railway, Vijayawada Division
Vijayawada.

The Sr. Divisional Commercial Officer,
Commercial Branch,
Divisional Railway Manager's Office,
South Central Railway, Vijayawada Division
Vijayawada.

Copy to:

The Director, TCR & TI, A.P., Amaravathi.
The P.S. to Hon'ble Minister(SWE&TWE)
The P.S. to Principal Secretary(TW)

// FORWARDED:: BY ORDER //

SECTION OFFICER